

UNITED STATES DISTRICT COURT FOR THE  
EASTERN DISTRICT OF TENNESSEE  
AT GREENEVILLE

UNITED STATES OF AMERICA	)	
	)	
v.	)	NO. 2:07-CR-40
	)	
HERBERT S. MONCIER	)	

**ORDER**

This criminal contempt matter is before the Court to address the defendant's memorandum in regard to authorized punishment and the Defendant's Demand for a Jury Trial. Contrary to the defendant's position, it is clearly settled that he may be subject to a term of imprisonment and, if that term does not exceed six months, he is not entitled to a jury trial. Citing numerous supporting authorities, the United States Supreme Court has specifically held in *Taylor v. Hayes*, 418 U.S. 488, 495, 9 S.Ct. 2697, 2701-2702, 41 L.Ed. 897 (1974):

Petitioner contends that any charge of contempt of court, without exception, must be tried to a jury. Quite to the contrary, however, our cases hold that petty contempt like other petty criminal offenses may be tried without a jury and that contempt of court is a petty offense when the penalty *actually imposed* does not exceed six months or a longer penalty has not been expressly authorized by

statute. *Cheff v. Schnackenberg*, 384 U.S. 373, 86 S.Ct. 1523, 16 L.Ed.2d 629 (1966); *Bloom v. Illinois*, 391 U.S. 194, 88 S.Ct. 1477, 20 L.Ed.2d 522 (1968); *Dyke v. Taylor Implement Mfg. Co., Inc.*, 391 U.S. 216, 88 S.Ct. 1472, 20 L.Ed.2d 538 (1968); *Frank v. United States*, 395 U.S. 147, 89 S.Ct. 1503, 23 L.Ed.2d 162 (1969); *Baldwin v. New York*, 399 U.S. 66, 90 S.Ct. 1886, 26 L.Ed.2d 437 (1970). Hence, although petitioner was ultimately found guilty and sentenced separately on eight counts of contempt, the sentences were to run concurrently and were, as the Kentucky Court of Appeals held, equivalent to a single sentence of six months. Cf. *Codigreerspoti v. Pennsylvania*, 418 U.S. 506, 94 S.Ct. 2687, 41 L.Ed.2d 912. (Emphasis added).

Accordingly, it is hereby **ORDERED** that insofar as the defendant's memorandum seeks a jury to try this case and the Defendant's Demand for a Jury Trial are **DENIED** because, if the defendant is found to be guilty, any penalty imposed by this Court will not exceed six months. [Docs. 12 and 28].

**E N T E R:**

**s/J. RONNIE GREER**  
**UNITED STATES DISTRICT JUDGE**